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and all similarly situated individuals.*

UNITED STATES DISTRICT COURT

DISTRICT OF ARIZONA

BRANDON M. WALSH,)
Individually and on behalf of all others)
similarly situated,)

Plaintiff,)

v.)

No. _____

CLASS ACTION COMPLAINT

1 FEDERAL NATIONAL MORTGAGE)
2 ASSOCIATION)
3 Defendant.)

JURY TRIAL REQUESTED

4 **INTRODUCTION**

5 1. Plaintiff, Brandon M. Walsh, a mortgage applicant subjected to the
6 repeated violation of, and intentional non-compliance with, the Fair Credit Reporting
7 Act (the “FCRA”), 15 U.S.C. §1681 *et seq.*, of Defendant, Federal National Mortgage
8 Association (“Fannie Mae”), brings this action on behalf of himself and other similarly-
9 situated persons as defined below, to redress Defendant’s past, present and continuing
10 violations of the FCRA, including but not limited to the provisions contained in 15
11 U.S.C. § 1681e(b).

12 2. As a well-known colossus in the secondary mortgage loan market, Fannie
13 Mae also silently plays a dominant role in home mortgage loan origination. While its
14 involvement in the loan origination process is largely unknown to the public, Fannie
15 Mae exerts a tremendous influence on each step of the application process. Through its
16 automated underwriting system that it requires lenders to use throughout the country,
17 Fannie Mae obtains, reviews and evaluates consumer credit information in advance of
18 loan origination for its own underwriting purposes; charges lenders, brokers and
19 consumers for this information through the generation and publication of consumer
20 reports; and dictates to lenders and consumers the outcome of mortgage loan
21 applications, including rates and terms. This process enables Fannie Mae to reap
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1 significant profits by carrying out a business model based on risk-based pricing and the
2 collection of fees for each loan application run through its system.

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4 3. However, despite its manifold roles as a user of credit information, a
5 consumer reporting agency and a reseller of credit information in a typical mortgage
6 transaction, Fannie Mae has deliberately made itself unaccountable to consumers, and
7 intentionally fails to comply with any of the requirements imposed on it by the FCRA.
8

9 4. Fannie Mae's flagrant disregard for the law apparently results from an
10 arrogant position that, as a government sponsored enterprise, it is somehow exempt
11 from the grave responsibilities imposed by the FCRA on every other company that
12 uses, disseminates and/or sells consumer credit information. As such, mortgage
13 applicants like Plaintiff are harmed in that they are denied certain rights guaranteed by
14 the FCRA, including the ability to discover what information may have impacted
15 their loan eligibility, the right to request and/or dispute the information that was
16 considered in connection with their applications, and the right to expect that their
17 credit information was reported with maximum possible accuracy.
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21 **JURISDICTION AND VENUE**

22 5. This Court has subject matter jurisdiction over this matter pursuant to 15
23 U.S.C. § § 1681p and 28 U.S.C. § 1337. Venue in this judicial district is proper because
24 Mr. Walsh resides in this judicial district and many of the facts relevant to this
25 Complaint occurred in this judicial district.
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PARTIES

6. Mr. Walsh is an adult individual who is a resident of Queen Creek, Maricopa County, Arizona.

7. Fannie Mae is a publicly held corporation that has a principal place of business located at 3900 Wisconsin Ave., NW Washington, DC 20016-2892, and which regularly conducts business throughout Arizona and in all fifty (50) states in the United States.

GENERAL FACTUAL ALLEGATIONS

A. Fannie Mae and Its Automated Desktop Underwriter System.

8. Fannie Mae is a shareholder-owned for-profit corporation that is publicly traded on the U.S. Stock Exchange.

9. Fannie Mae is also known as a government-sponsored enterprise (“GSE”) because it was chartered by Congress to provide a secondary market for home mortgages. In exchange for its agreement to act as a mortgage loan purchaser in the secondary market, Fannie Mae’s charter provides it with certain financial advantages and incentives.

10. Due to federal banking regulations requiring most primary mortgage lenders to maintain minimum capital, after originating mortgage loans, many mortgage lenders in the United States sell their loans to Fannie Mae.

1 11. Fannie Mae, together with its “little brother” Freddie Mac, purchase or
2 guarantee more than half of all mortgages originated in the United States, depending
3 upon market conditions and consumer trends.
4

5 12. Fannie Mae purchases what are known as conventional conforming loans.
6 These are loans that are not insured or guaranteed by the federal government, are less
7 than \$417,000, and have certain prescribed risk characteristics. Fannie Mae publishes
8 its *Selling Guide* which outlines the specific requirements necessary for eligibility for
9 Fannie Mae purchase.
10

11 13. Fannie Mae buys these conventional conforming loans and either bundles
12 them as securities and sells them to investors or holds the loans in its own portfolios.
13

14 14. Unknown to the public, and due to its status as one of the two (2)
15 dominant secondary market purchasers of mortgages, along with mortgage lenders’
16 interest in assuring the sale of their loans, Fannie Mae has entered into contracts with
17 numerous mortgage lenders and/or brokers throughout the United States which, in
18 exchange for its advance commitment to buy mortgage loans from these lenders in the
19 secondary market, allow it to dictate the underwriting terms and conditions of most of
20 the conventional conforming loans that these lenders originate.
21

22 15. For the mortgage lenders and brokers who have contracts with Fannie
23 Mae and who sell mortgage loans to Fannie Mae in the secondary market, Fannie Mae
24 requires that the mortgage applications be submitted through its *Desktop Underwriter*
25 automated underwriting system (“DU System”) in order to get a quick approval or
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1 denial, the best lender/broker pricing, higher debt-to-income ratios, higher loan-to-
2 value ratios, better loan programs not available outside the DU System, and risk-based
3 pricing, before any commitment is made to the prospective borrowers. For these
4 lenders, Fannie Mae leases or licenses its DU System for use by the lenders or
5 mortgage loan brokers and charges these lenders or brokers a fee for each mortgage
6 application run through the DU system.
7

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9 16. Fannie Mae's DU System is also used in connection with non-
10 conforming loans that Fannie Mae is not permitted to purchase pursuant to its
11 congressional charter. These other types of loans include, but are not limited to FHA,
12 Jumbo, and sub-prime loans.
13

14 17. Through the DU System, Fannie Mae gathers data from an applicant's
15 three-file and/or "tri-merge" consumer report from either a reseller of credit
16 information, or one or more of the three (3) major credit repositories, Equifax, Trans
17 Union and Experian ("National Repositories), which Fannie Mae sells to the
18 mortgage lender or broker.
19

20
21 18. And while a mortgage broker or lender may order a credit report from a
22 reseller or National Repositories during the application process as required by the DU
23 Guidelines, the DU System automatically uploads the data and other consumer credit
24 information it gathers from one of the National Repositories or a reseller.
25

26 19. Fannie Mae's DU System then reviews, assesses and/or evaluates all of
27 the information it obtains from the lender and/or broker, and the consumer reporting
28

1 agencies and/or resellers, including the consumer reports, and generates its own report,
2 known most frequently as the *Desktop Underwriting Findings* report (“DU Findings
3 Report”).
4

5 20. The DU Findings Report is a detailed report documenting, among other
6 things, the applicant’s credit history, credit worthiness, credit standing, credit capacity,
7 character, general reputation, personal characteristics, mode of living, assets, income,
8 debt-to-income ratio, and employment. Further, the DU Findings Report contains
9 findings, conclusions, comments and results reached by Fannie Mae concerning the
10 applicant’s credit and his or her “eligibility” for loan purchase by Fannie Mae, as well
11 as Fannie Mae’s recommendation as to whether the lender should grant or originate the
12 loan, deny the loan or approve it subject to certain conditions being satisfied. These
13 DU Findings Report determinations are made for all types of loans submitted through
14 the DU System, whether or not Fannie Mae purchases them in the secondary market.
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18 21. Upon information and belief, Fannie Mae’s contracts with its mortgage
19 lender clients prohibit lenders and/or brokers from disclosing all or part of its DU
20 Findings Reports, and Fannie Mae intentionally enforces a policy of restricting
21 disclosure of the DU Findings Reports from the very consumers to whom they pertain.
22

23
24 22. If Fannie Mae determines that a consumer is ineligible for loan purchase,
25 or may only be approved subject to a change in loan terms, a higher interest rate, the
26 imposition of additional fees, charges, documentation or the satisfaction of certain
27 underwriting conditions based on information contained in the consumer report it
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1 obtains, it does not provide the consumer with any notice of the adverse action it has
2 taken, in violation of the FCRA.

3
4 23. Further, despite the fact that it compiles, issues, maintains and sells its
5 DU Findings Reports to lenders and/or brokers on a nationwide basis, Fannie Mae
6 does not provide consumers with disclosures of the files it maintains on them, the
7 sources of the information it reports, summaries of their rights, does not maintain any
8 toll-free telephone numbers available to consumers and does not investigate any co
9 disputes, all also in further violation of the FCRA.
10

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12 **B. The Downturn in the Economy Resulted in Many Homeowners**
13 **Negotiating Short Sales of Real Estate.**

14 24. Plaintiff Walsh, like all other class members herein, owned a piece of real
15 estate that was subject to a mortgage lien.

16
17 25. In 2007, the United States economy suffered a dramatic downturn. The
18 housing bubble burst, and there was a significant negative domino effect in the lending
19 industry as well as the investment market. Hoards of homeowners found themselves
20 obligated on mortgages significantly greater than the values of their underlying homes.
21

22 26. Short sales – a lender-approved sale of a home for less than the
23 outstanding mortgage amount – emerged as a leading response to the growing crisis.

24
25 27. By 2012, the Federal Housing Finance Agency (“FHFA”) announced
26 measures to make short sales easier for owners of underwater homes. The significant
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1 growth in approved short sales has helped buoy the housing market and push distressed
2 house prices higher in the past few years.

3
4 28. Plaintiff Walsh, like all other class members herein, negotiated a short sale
5 of his real estate.

6 29. Pursuant to Fannie Mae's published Desktop Underwriter Guidelines
7 ("DU Guidelines"), Fannie Mae will not even consider purchasing a conventional
8 mortgage loan if the applicant has had a short sale in the two (2) years prior to the
9 current obligation. In other words, Plaintiff Walsh, like all other class members herein,
10 would not be able to qualify for conventional mortgage financing for a minimum of two
11 (2) years following his short sale.
12

13
14 30. Plaintiff Walsh, like all other class members herein, waited his obligatory
15 two (2) years before applying for a new conventional mortgage loan.
16

17 31. Specifically, in April and May of 2013, Plaintiff Walsh applied for a
18 residential mortgage loan with Wells Fargo and next with Academy Mortgage. In both
19 instances, Plaintiff Walsh was denied conventional mortgage financing.
20

21 32. In September or October of 2013, Plaintiff Walsh again applied for a
22 residential mortgage loan with Desert Schools Federal Credit Union and again was
23 denied conventional mortgage financing.
24

25 33. In May of 2014, Plaintiff Walsh again applied for a residential mortgage
26 loan with Academy Mortgage and again was denied conventional mortgage financing.
27
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1 34. For Plaintiff Walsh, like every class member herein, the basis for each
2 denial was a DU Findings Report that contained a “Refer with Caution”
3 recommendation, which amounts to a credit denial per Fannie Mae’s Selling Guide. *See*
4 *e.g.* Fannie Mae’s DU Findings Reports issued to Academy Mortgage and Desert
5 Schools (copies of which are attached hereto as Exhibit 1).

6
7 35. For Plaintiff Walsh, like every class member herein, each “Refer with
8 Caution” recommendation resulted from the fact that Fannie Mae identified the previous
9 short-sale as a “foreclosure,” which automatically disqualifies the applicant for
10 conventional mortgage financing for seven (7) years.
11

12
13 36. Plaintiff Walsh, like all other class members herein, suffered economic
14 and/or non-economic harm as a result of this denial of his mortgage application.
15

16 **C. DU Wrongly Flags Short Sales (and Any Serious Mortgage**
17 **Delinquency) As A Foreclosure.**

18 37. On March 12, 2013, Fannie Mae released a “Desktop Underwriter
19 Clarification” in response to mounting “requests for clarification on how Desktop
20 Underwriter (DU) identifies a foreclosure and a pre-foreclosure sale[.]” *See* Desktop
21 Underwriter Clarification (a copy of which is attached hereto as Exhibit 2).
22

23 38. In this regard, Fannie Mae described DU’s identification of a pre-
24 foreclosure or short sale as follows:
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Preforeclosure Sale Identification

A preforeclosure sale or short sale is the sale of a property in lieu of a foreclosure resulting in a payoff of less than the total amount owed, which was pre-approved. At this time, there are no codes provided in the credit report data received by DU that specifically identify a preforeclosure sale.

With DU Version 8.2 in December 2010, DU began issuing a message based on the presence of Remarks Codes E0047 (Settlement accepted on this account), T0140 (Settled for less than full balance), or R0107 (Account legally paid in full for less than the full balance) on a mortgage or HELOC account. However, because those codes can be used on any account for any reason, DU is not able to use those codes to identify a preforeclosure sale with 100% accuracy, so it is not able to fully automate the preforeclosure sale waiting period or eligibility requirements.

When DU issues the preforeclosure sale message the lender must confirm that the preforeclosure sale had been completed two or more years from the credit report date, and must confirm that the loan casefile complies with all other requirements specific to preforeclosure sales as specified in the Fannie Mae *Selling Guide*.

See Exhibit 2 at 1 of 3.

39. Per the DU Findings Reports used to deny Plaintiff Walsh's mortgage applications, like all other class members herein, Fannie Mae specifically and correctly identified the previous short sale.

40. So long as the pre-foreclosure or short sale was completed more than two (2) years before the current application, that prospective loan is still eligible for purchase by Fannie Mae and the DU System will automatically not refer, i.e., deny, the application. See *Selling Guide*, Part B, Subpart 3, Chapter 5 (relevant excerpts of the 2011 and 2013 versions of which are attached collectively hereto as Exhibit 3) at 433-434 and 464-465, respectively. See also Exhibit 2 at page 2 of 7.

41. In describing a DU Finding's Report identification of a foreclosure in the DU System, Fannie Mae represents as follows:

Foreclosure Identification

When reviewing the credit report data received, DU reviews the manner of payment (MOP) codes and Remarks Codes associated with each tradeline, and the Public Record information to determine if a foreclosure has occurred.

Mortgage accounts, including first liens, second liens, home improvement loans, HELOCs, and mobile home loans, will be identified as subject to a foreclosure if there is a current status code or MOP code of "8" (foreclosure) or "9" (collection or charge-off); or if there is a foreclosure-related Remarks Code present in the credit report data and associated to the tradeline. If a foreclosure was reported within the seven-year period prior to the report date associated with the tradeline, the loan casefile will receive a Refer with Caution recommendation and will be ineligible for delivery to Fannie Mae as a DU loan.

See Exhibit 2 at 1 of 3.

42. Per this "Desktop Underwriter Clarification," Fannie Mae admits that accounts reported by the original creditor merely as "collection or charge-off" – accounts admittedly not in foreclosure – will be identified by the DU System as having been in foreclosure.

43. Any prospective loan that DU identifies as having a foreclosure in the previous seven (7) years will automatically be ineligible for purchase by Fannie Mae.
See Exhibit 3 at 464.

44. Thus, for Plaintiff Walsh, like all other class members herein, even though a DU Report correctly identified a previous short sale, acknowledging that so long as that short sale was more than two (2) years ago, the same DU Report also manufactured a non-existent foreclosure and referred, i.e., denied, the application accordingly.

45. This incorrect identification of a foreclosure prevented Plaintiff Walsh, like all other class members herein, from obtaining his conventional mortgage financing at the terms originally negotiated.

1 **D. Fannie Mae Acknowledges Deficiency in the DU System and DU Finding**
2 **Reports**

3 46. Upon information and belief, Plaintiff Walsh is only one of hundreds of
4 thousands (if not greater numbers) of homeowners who have had a short sale
5 misidentified by a DU Findings Report as a foreclosure, thereby preventing them from
6 obtaining conventional financing or refinancing.
7

8 47. In May 2013, the Consumer Protection Subcommittee of the U.S. Senate
9 Committee on Commerce, Science & Transportation held a hearing on Capitol Hill to
10 address a variety of problems plaguing the consumer reporting industry.
11

12 48. During this hearing, Senator Bill Nelson, D-Fla., raised serious concerns
13 about the significant and growing numbers of his constituents that had been denied
14 conventional financing due DU Finding Reports wrongly identifying a foreclosure, in
15 addition to, or instead of, a short sale.
16

17 49. After months of prodding from Senator Nelson, the federal Consumer
18 Financial Protection Bureau, the National Consumer Reporting Association and the
19 National Association of Realtors, Fannie Mae announced a change to its automated DU
20 System to “fix” the problem:
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Underwriting when Conflicting or Inaccurate Foreclosure Information Provided on DIL or PFS Tradeline

Fannie Mae has been made aware that there are often inconsistencies in the credit data when DIL and PFS events occur, and in an effort to assist borrowers in obtaining a new loan in an appropriate timeframe, DU will be updated to disregard the foreclosure information on the credit report when instructed to do so by the lender on the online loan application.

When DU identifies a foreclosure on a credit report tradeline that appears to be one that was subject to a DIL or PFS, the lender may instruct DU to disregard the foreclosure information on the credit report by entering "Confirmed CR DIL" or "Confirmed CR PFS" in the Explanation field for question c. in the Declarations section of the online loan application and resubmitting the loan casefile to DU. When DU sees this indication, the foreclosure information on the credit report tradeline that also has a DIL or PFS Remarks Code will not be used.

See Desktop Originator/Desktop Underwriter Release Notes DU Version 9.1 dated August 20, 2013 (relevant excerpts of which are attached collectively hereto as Exhibit 4) at 6.

50. While these changes were expected to take effect the week of November 16, 2013, see Exhibit 4 at 1, and were intended to allow consumers to rightfully obtain conventional financing from that point going forward, Plaintiff Walsh, again thereafter was falsely identified on subsequent DU Findings Reports as having previously been subject to a foreclosure instead of a short sale and, like all other class members herein, he again was denied the ability to obtain residential mortgage financing through Fannie Mae's automated DU System.

51. Plaintiff Walsh, like all other class members herein, suffered substantial economic and non-economic harm as a result of the false DU Findings Reports Fannie Mae issued through its DU System.

CLASS ACTION ALLEGATIONS**A. CLASS DEFINITION.**

1 52. Plaintiff Walsh brings this action as a class action pursuant to Fed. R. Civ.
2 P. 23 on behalf of himself and other persons similarly situated pursuant to Fed. R. Civ.
3 P. 23(a).
4

5 53. Plaintiff Walsh is a member of the Class he seeks to represent, which is
6 defined as follows:
7

8 All individuals (“consumers” as defined by the FCRA) about whom Fannie Mae
9 issued a DU Findings Report to any mortgage broker or mortgage lender with a
10 “Refer with Caution” recommendation in which Desktop Underwriter identified
a foreclosure on an account(s) that also identified the account(s) as subject to a
pre-foreclosure sale.

11 Excluded from the Class are Defendant, Defendant’s affiliates, employees, officers and
12 directors, and the Judge to whom this case is assigned. Plaintiff Walsh reserves the
13 right to amend this Class definition if discovery and further investigation reveals that
14 the Class should be expanded or otherwise modified.
15

16 54. The members of the Class are readily identifiable from information and
17 records in Defendant’s possession, custody or control.
18

19 **B. NUMEROSITY AND IMPRACTICABILITY.**
20

21 55. The Class is so numerous that it is impracticable to bring all of its
22 members before the Court.

23 56. The actual number of Class members can be determined from Defendant’s
24 records.
25

26 57. Upon information and belief, Defendant’s own records demonstrate that
27 there are tens of thousands of Class members who received a “Refer with Caution”
28

1 recommendation and thus were not able to secure mortgage financing because a
2 previous short sale was incorrectly identified as a foreclosure.

3
4 **C. COMMON QUESTIONS OF LAW AND FACT.**

5 58. The prosecution of the claims of Plaintiff Walsh requires adjudication of
6 questions of law and fact common to the Class. Such questions include, but are not
7 limited to, the following:

- 8
- 9 • Whether Fannie Mae's Desktop Underwriter System is subject to the mandates of the FCRA;
 - 10 • Whether the DU Findings Report is a "consumer report" as defined by the FCRA;
 - 11 • Whether Fannie Mae, through operation of its Desktop Underwriter System is a "consumer reporting agency" as defined by the FCRA;
 - 12 • Whether Fannie Mae's Desktop Underwriter System has a uniform policy, practice or procedure that allows a preforeclosure sale such as a short sale to be incorrectly identified as a "foreclosure" for purposes of determining whether a prospective loan would be eligible for delivery to Fannie Mae;
 - 13 • Whether a uniform policy, practice or procedure that allows a preforeclosure sale such as a short sale to be incorrectly identified as a "foreclosure" for purposes of determining whether a prospective loan would be eligible for delivery to Fannie Mae is "reasonable" as that term is used in the FCRA;
 - 14 • Whether Defendant has failed to follow reasonable procedures to assure maximum possible accuracy of the information concerning the individual(s) about whom a DU Findings Report relates in violation of the FCRA.

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21 59. The questions of law and fact common to the Class predominate over any
22 questions affecting only individual Class members.

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24 **D. TYPICALITY.**

25 60. Plaintiff Walsh's claims are typical of Class members' claims.

26 61. The DU Findings Reports pertaining to Plaintiff Walsh are generated
27 using the same basic process as the DU Findings Reports of the Class.
28

1 62. The alleged flaw in the generation of Plaintiff Walsh's DU Findings
2 Reports are the same for all Class members.

3
4 63. The merits of Plaintiff Walsh's claim hinges on the same systemic
5 conduct as the merits of all Class members' claims.

6 64. Plaintiff Walsh and the other Class members have been and are similarly
7 adversely affected by the systematic and uniform policy, practice and procedures
8 complained of herein.

9
10 **E. ADEQUACY OF REPRESENTATION.**

11 65. Plaintiff Walsh will fairly and adequately protect the interest of the Class
12 in so far as he is broadly representative of other Class members, as reflected in the
13 preceding Paragraphs.

14
15 66. Plaintiff Walsh's interests are co-extensive with those of Class members
16 in that each would benefit from a declaration that Defendant Fannie Mae is subject to
17 the mandates of the FCRA, and its standard and uniform policies, practices and
18 procedures violate the FCRA.

19
20 67. Plaintiff Walsh has no interests which are antagonistic or adverse to the
21 interest of other class members.

22
23 68. Plaintiff Walsh is willing and able to represent the Class fairly and
24 vigorously as he pursues their common goal through this civil action.

25
26 69. Plaintiff Walsh has also retained legal counsel experienced in litigating
27 major class actions, including those in the field of consumer law, and who are prepared
28

1 and able to meet the time and fiscal demands of class action litigation of this size and
2 complexity.

3
4 70. The combined interest, experience and resources of Plaintiff Walsh and
5 his counsel to litigate competently the claims of the Class satisfy the requirements of
6 Fed. R. Civ. P. 23(a)(4).

7
8 **F. CERTIFICATION PURSUANT TO FED. R. CIV. P. 23(b)(1).**

9 71. Prosecution of separate actions by individual Class members creates the
10 risk of inconsistent or varying adjudications that would establish incompatible standards
11 of conduct for Defendant Fannie Mae.

12
13 **G. CERTIFICATION PURSUANT TO FED. R. CIV. P. 23(b)(3).**

14 72. Questions of law and fact common to the members of the Class (as
15 alleged more fully in Paragraph 15 *supra*) predominate over any questions affecting
16 only individual members.

17
18 73. A class action is superior to other available methods for the fair and
19 efficient adjudication of this controversy.

20
21 74. Most individual members of the Class have little ability to prosecute an
22 individual action due to the complexity of the issues involved in this litigation, the
23 significant costs attendant to litigation on this scale, and the comparatively small,
24 although significant, statutory damages to which each Class member is entitled.

25
26 75. Prosecution as a class action will eliminate the possibility of repetitious
27 and/or inconsistent litigation.
28

1 76. This action will result in an orderly and expeditious administration of
2 claims of members of the Class. Economies of time, effort, and expense will be
3 fostered and uniformity of decisions will be ensured.

4
5 77. Absent a class action, Defendant Fannie Mae's violations of the FCRA
6 will continue without remedy.

7
8 78. This action presents no difficulty that would impede its management by
9 the Court as a class action. When liability of Defendant Fannie has been adjudicated,
10 the damages of members of the Class can be administratively determined.

11
12 **H. CERTIFICATION AS TO LIABILITY ONLY PURSUANT TO FED. R.**
13 **CIV. P. 23(c)(4).**

14 79. Should this Court determine that administrative determination of
15 individual Class members' damages is infeasible or impractical, the predominate
16 common questions as to liability are appropriate for Class-wide treatment.

17
18 **CAUSE OF ACTION**

19 **FAIR CREDIT REPORTING ACT VIOLATIONS**

20 80. Plaintiff Walsh hereby incorporates by reference all well-pleaded
21 allegations contained in the preceding paragraphs as if fully rewritten herein.

22
23 81. Section 1681o of the FCRA provides for civil liability against any CRA
24 that is negligent in failing to comply with any requirement imposed under the Act.

25 82. Section 1681n of the FCRA imposes civil liability on any CRA "who
26 willfully fails to comply with any requirement" of the Act. See 15 U.S.C. § 1681n(a).
27

28 **Failure To Adopt And/Or Follow Reasonable Procedures.**

1 83. The FCRA mandates that “[w]henver a consumer reporting agency
2 prepares a consumer report it shall follow reasonable procedures to assure maximum
3 possible accuracy of the information concerning the individual about whom the report
4 relates.” See 15 U.S.C. § 1681e(b).

6 84. The DU Findings Reports generated by Fannie Mae’s DU System is a
7 “consumer report” as that term is defined by Section 1681a(d) of the FCRA.

9 85. On numerous occasions over the past two (2) years, Fannie Mae has
10 prepared a consumer report concerning Plaintiff Walsh, and all other members of the
11 Class herein, and disseminated such report(s) to one or more third party(s), that failed to
12 assure “maximum possible accuracy” of information pertaining to Plaintiff Walsh and
13 members of the Class.
14

15 86. Fannie Mae willfully and/or negligently failed to follow reasonable
16 procedures to assure maximum possible accuracy of the consumer reports it prepared
17 and/or published concerning Plaintiff and members of the Class, in violation of 15
18 U.S.C. § 1681e(b).
19

20 87. To the contrary, Fannie Mae has affirmatively adopted and follows an
21 unreasonable foreclosure identification procedure that, on its plain terms, knowingly
22 misidentifies non-foreclosures as foreclosures.
23

24 88. As a direct and proximate result of Fannie Mae’s willful and/or negligent
25 refusal to follow reasonable procedures as mandated by the FCRA, Plaintiff Walsh and
26 members of the Class, have suffered loss and damage including, but not limited to:
27
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1 financial loss, loss of credit opportunity, expenditure of time and resources, and/or non-
 2 economic loss including without limitation humiliation, and embarrassment, entitling
 3 him, like all other class members herein, to an award of actual damages in amounts to
 4 be proved at trial, plus attorneys' fees together with the costs of this action pursuant to
 5 15 U.S.C. § 1681o.
 6

7
 8 89. Fannie Mae's refusal to follow reasonable procedures as mandated by the
 9 FCRA reveals a conscious disregard of the rights of Plaintiff Walsh and all other
 10 members of the Class . The injuries suffered by Plaintiff Walsh and the Class are
 11 attended by circumstances of fraud, malice, retaliation, and willful and wanton
 12 misconduct, calling for statutory damages, an assessment of punitive damages, plus
 13 attorneys' fees and costs pursuant 15 U.S.C. § 1681n.
 14

15
 16 **PRAYER FOR RELIEF**

17 WHEREFORE, Plaintiff Walsh, on behalf of himself and members of the Class that he
 18 seeks to represent, requests the following relief against Defendant Fannie Mae:

- 19 a. Acceptance of jurisdiction of this cause;
 20
 21 b. Certification of the case as a class action maintained under Fed. R. Civ. P.
 22 23(a) *and* Fed. R. Civ. P. 23(b)(1) *or* Fed. R. Civ. P. 23(b)(3) *or* Fed. R.
 23 Civ. P. 23(c)(4);
 24
 25 c. Designation of the Plaintiff Walsh as representative of the Class; and his
 26 counsel of record as counsel for the Class;
 27
 28

- 1 d. An award statutory damages if Defendant Fannie Mae is found to have
2 willfully violated the Fair Credit Reporting Act;
3
4 e. An award of punitive damages if Defendant Fannie Mae is found to have
5 willfully violated the Fair Credit Reporting Act;
6
7 f. An award of prejudgment interest if Defendant Fannie Mae is found to
8 have willfully or negligently violated the Fair Credit Reporting Act;
9
10 g. An award of litigation, costs and expenses, including reasonable
11 attorney's fees to the Plaintiff and to members of the Classes;
12
13 h. That a jury try this cause; and
14
15 i. Such other and further relief as the Court may deem just and proper.

16 **JURY DEMAND**

17 90. Plaintiff Walsh respectfully demands a trial by jury on all issues so triable
18 in this lawsuit.

19 Dated this 27th day of April, 2015.

Respectfully submitted,

22 /s/ Paul B. Mengedoth
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*Pro Hac Vice Applications Forthcoming